

1 Kim Schumann, Esq., State Bar #170942
Jeffrey P. Cunningham, Esq., State Bar #151067
2 **SCHUMANN | ROSENBERG**
3100 Bristol Street, Suite 100
3 Costa Mesa, CA 92626
Telephone (714) 850-0210
4 Facsimile (714) 850-0551
Email: Cunningham@SchumannRosenberg.com

5 Attorneys for Defendant, ORLY TAITZ
6
7

8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA, SOUTHERN DIVISION**
10

11 LISA LIBERI, et al.,) Case No. 8:11-CV-00485-AG (AJW)
12 Plaintiff,) Hon. Andrew Guilford
13 v.) Courtroom 10D
14 ORLY TAITZ, et al.,) ANSWER OF DEFENDANT, ORLY
15 Defendants.) TAITZ, TO PLAINTIFF, LISA
) OSTELLA'S SECOND AMENDED
) COMPLAINT
) [Demand for Jury Trial]

16
17

18 **TO THE COURT, ALL PARTIES, AND/OR THEIR ATTORNEYS OF**
19 **RECORD:**

20 **COMES NOW**, Defendant, ORLY TAITZ ("Defendant"), who submits this
21 Answer to the Second Amended Complaint ("SAC") of Plaintiff, LISA M.
22 OSTELLA ("Plaintiff"), for herself alone, and who admits, denies and alleges as
23 stated herein.

24 This Answer is submitted with a full reservation of all statutory rights by
25 Defendant to file Motions to dismiss and to strike, for attorneys' fees and costs,
26 and/or for other relief under Fed. R. Civ. P. 12, California Code of Civil Procedure
27 section 425.16, and other related legal authority. On October 19, 2017, Defendant
28 submitted a letter request to the Court for leave to file such Motions. A true copy of

1 such letter is attached hereto as “**Exhibit A.**” As of the date of filing this Answer,
2 the Court has not acted upon such pending request, and Defendant accordingly
3 reserves her statutory rights to bring those Motions which are the subjects of that
4 request.

5 1. In answering paragraph 1 of the SAC, Defendant admits that she is the
6 sole remaining Defendant and that Plaintiff is the sole remaining Plaintiff in the
7 case captioned above. Defendant further admits that she entered into a settlement
8 with former Plaintiff, LISA LIBERI. However, the settlement expressly provides
9 that no moneys were paid by either party, including Defendant. No settlement was
10 made with any other party. Defendant is without knowledge or information
11 sufficient to form a belief as to the truth of the allegations contained in the
12 remainder of said paragraph 1 of the SAC, and on that basis, denies each and every
13 allegation contained therein.

14 2. In answering paragraph 2 of the SAC, Defendant admits that Plaintiff
15 asserts four claims in her SAC. Defendant denies each and every remaining
16 allegation of paragraph 2 of the SAC.

17 3. In answering paragraph 3 of the SAC, Defendant denies that she
18 “posted about Ostella eleven times in 2009 on TAITZ’s blog, i.e.,
19 www.ONLYTAITZesq.com web blog.” There is no record of any postings before
20 April 18, 2009 with regard to said blog, which was created on April 18, 2009. There
21 are no postings from April 17, 2009. Further, Defendant does not know if other
22 postings purported to be quoted in paragraph 26 of the SAC are in the same form as
23 they were when they were posted. Accordingly, Defendant is without knowledge or
24 information sufficient to form a belief as to the truth of such allegations. Defendant
25 admits that she owns the e-mail addresses dr_TAITZ@yahoo.com,
26 ONLY.TAITZ@gmail.com, and ONLY.TAITZ@hushmail.com. To the best of
27 Defendant’s recollection, ONLY.taitz@hushmail.com was not used to make any
28 alleged posting referenced in the SAC. Defendant denies that the e-mail addresses

1 referenced in the third sentence of paragraph 3 of the SAC are “used by TAITZ to
2 publish comments about Ostella.” Defendant denies that she “is involved in
3 displaying Ads, seeking contributions, along with posting about Ostella on
4 TAITZ’s blog www.ONLYTAITZ.com.” Defendant denies each and every remaining
5 allegation of paragraph 3 of the SAC.

6 4. In answering paragraph 4 of the SAC, Defendant denies each and
7 every allegation contained therein.

8 5. In answering paragraph 5 of the SAC, Defendant admits that she
9 resides in California. Defendant is informed and believes and based thereon states
10 that Plaintiff resides in New Jersey. Defendant denies each and every remaining
11 allegation of paragraph 5 of the SAC.

12 6. In answering paragraph 6 of the SAC, Defendant denies that she
13 resides in Santa Ana, California. Defendant is without knowledge or information
14 sufficient to form a belief as to the truth of the allegations contained in the
15 remainder of said paragraph 6 of the SAC, and on that basis, denies each and every
16 allegation contained therein.

17 7. In answering paragraph 7 of the SAC, Defendant denies that Plaintiff
18 “owns a library of domains” with regard to Defend Our Freedoms Foundation, Inc.
19 (“DOFF”) and any Internet domain name using that name or any variation thereof.
20 Defendant is without knowledge or information sufficient to form a belief as to the
21 truth of the remaining allegations contained in said paragraph 7 of the SAC, and on
22 that basis, denies each and every allegation contained therein.

23 8. In answering paragraph 8 of the SAC, Defendant denies each and
24 every allegation contained therein.

25 9. In answering paragraph 9 of the SAC, Defendant admits that Plaintiff
26 was developing an Internet blog for and on behalf of Defendant and DOFF in and
27 about December 2008. Further, if and to the extent Plaintiff purported to purchase
28 the domain “DefendOurFreedoms” and related suffixes, Plaintiff did so with an

1 express assurance to Defendant that such domain and all web addresses
2 defendourfreedoms.org, .net, .com, and .us would be used for Defendant and DOFF
3 and not for Plaintiff. Defendant denies each and every remaining allegation of
4 paragraph 9 of the SAC.

5 10. In answering paragraph 10 of the SAC, Defendant denies each and
6 every allegation contained therein.

7 11. In answering paragraph 11 of the SAC, Defendant denies each and
8 every allegation contained therein. Defendant owned the PayPal account for DOFF
9 and had the primary e-mail address for said account, orly.taitz@gmail.com, to
10 which donations via PayPal were to go. Plaintiff at all relevant times controlled a
11 secondary e-mail address that she added with regard to that PayPal account,
12 lisaostella@hotmail.com, and she created a third e-mail address,
13 drorly@defendourfreedoms.org, which Plaintiff controlled and which was also
14 connected by her to said PayPal account. Additionally, Plaintiff controlled the blog
15 and the computer code with regard to the PayPal donate button on said blog, such
16 that PayPal donations could be redirected by Plaintiff to one or more e-mail
17 addresses and PayPal accounts controlled by Plaintiff at any time. In March - April
18 2009, multiple donors to DOFF contacted Defendant and informed her that their
19 donations had been redirected. Initially, a number of donors pointed out that their
20 donations had gone to orly.taitz@gmail.org, which was not Defendant's e-mail
21 address. Defendant's e-mail address was orly.taitz @gmail.com. Subsequently,
22 several donors reported that their donations had gone to Plaintiff's e-mail address,
23 lisaostella@hotmail.com, and under the name "DefendOurFreedoms." Starting from
24 April 11, 2009, Plaintiff linked the PayPal donate button to one or more of her
25 e-mail addresses, which Defendant is informed and believes and based thereon
26 alleges included goexcelglobal.com and info@goexcelglobal.com. During the
27 December 20, 2010 hearing, Plaintiff admitted to locking Defendant out of the
28 website for DOFF and the related PayPal account, so that all donations made from

1 April 11, 2009 through the website she controlled under the name "Defend Our
2 Freedoms" went to Plaintiff, and not to Defendant or DOFF. **A factual finding was**
3 **made by the Hon. Eduardo Robreno, Judge, presiding over this case in 2010,**
4 **stating: "On cross examination, Ostella conceded that she locked Taitz out of**
5 **the web site www.DefendOurFreedomsFoundation.org and her associated**
6 **paypal accounts."** (See, December 23, 2010 Memorandum Order; Doc. No.
7 **160.**) Defendant denies each and every remaining allegation of paragraph 11 of the
8 SAC.

9 12. In answering paragraph 12 of the SAC, Defendant admits that persons
10 who intended to donate, and who believed that they had donated, to DOFF stated to
11 Defendant in and about March 2009 that their donations had been diverted from
12 DOFF. Based on these statements from donors, Defendant accordingly filed a report
13 with the Federal Bureau of Investigation seeking an investigation into the
14 complaints of diversion of donations from DOFF. Defendant does not recall stating
15 that "her PayPal account to the defendourfreedoms.us blog was hacked by outside
16 sources," and is therefore without knowledge or information sufficient to form a
17 belief as to the truth of such allegations. Defendant denies each and every
18 remaining allegation of paragraph 12 of the SAC.

19 13. In answering paragraph 13 of the SAC, Defendant denies each and
20 every allegation contained therein. Plaintiff stated to Defendant, to Susan Hiller,
21 Kathleen Vick and others that Fran MacLaren made changes to the involved
22 website and blog concerning its PayPal donation function, including that Ms.
23 MacLaren changed Defendant's e-mail address from orly.taitz@gmail.com to
24 orly.taitz@gmail.org. Defendant subsequently discussed this with Ms. MacLaren,
25 who informed Defendant that she did not make the changes claimed to have been
26 made by Plaintiff, and did not have access to the computer code regarding the
27 website or its PayPal donation function. Ms. MacLaren also stated to Defendant that
28 the only person who managed the website and had access to the computer code was

1 its webmaster, Plaintiff, and that the change of the e-mail address was either done
2 by the web master, Plaintiff, or through a hack from the outside. Defendant denies
3 each and every remaining allegation of paragraph 13 of the SAC.

4 14. In answering paragraph 14 of the SAC, Defendant denies that
5 donations from DOFF were not diverted, as was reported to her by several persons
6 who intended to donate, and who believed that they had donated, to DOFF.
7 Defendant did receive some donations via PayPal in and after January 2009, but
8 other donations intended for DOFF were diverted from it. Additionally, after April
9 11, 2009, any and all donations given through the website managed by Plaintiff
10 were diverted and went to Plaintiff and entities connected to Plaintiff. Defendant
11 denies each and every remaining allegation of paragraph 14 of the SAC.

12 15. In answering paragraph 15 of the SAC, Defendant denies each and
13 every allegation contained therein, including but not limited to the uncertain, vague
14 and ambiguous allegations regarding a "donations glitch."

15 16. In answering paragraph 16 of the SAC, Defendant admits that she filed
16 a report with the Federal Bureau of Investigation seeking an investigation into the
17 complaints from donors of diversion of donations from DOFF, that she posted that
18 there had been an unauthorized change of data on the defendourfreedoms.org,
19 website affecting its PayPal function, and that she did not accept Plaintiff's
20 "explanation" because it was untrue. Defendant denies each and every remaining
21 allegation of paragraph 16 of the SAC.

22 17. In answering paragraph 17 of the SAC, Defendant admits that Plaintiff
23 requested that she withdraw her report to the Federal Bureau of Investigation, or
24 that Plaintiff would no longer host the website of DOFF. Defendant advised
25 Plaintiff that there were multiple reports from donors of diversion of donations
26 intended for DOFF that warranted an investigation and that Defendant would find
27 another webmaster, but that Defendant would not withdraw a legitimate report to
28

1 the Federal Bureau of Investigation. Defendant denies each and every remaining
2 allegation of paragraph 17 of the SAC.

3 18. In answering paragraph 18 of the SAC, Defendant admits that she
4 refused to withdraw her report to the Federal Bureau of Investigation where there
5 were multiple reports from donors of diversion of donations intended for DOFF that
6 warranted an investigation. Further, the cessation of Plaintiff's webmaster services
7 to DOFF was a mutual decision by Defendant and Plaintiff due not only to
8 diversion of donations, but also due to money making activity by Plaintiff in selling
9 T-shirts, sweat-shirts, bumper stickers and other merchandise on the website for
10 DOFF, claiming to be a fundraiser for DOFF and not forwarding any profits from
11 those activities to DOFF. Defendant denies each and every remaining allegation of
12 paragraph 18 of the SAC.

13 19. In answering paragraph 19 of the SAC, Defendant denies that she filed
14 a written report with the Orange County Sheriff's Department. Defendant further
15 denies that she "posted her police report...." as alleged in said paragraph 19.
16 Defendant communicated verbally with the Orange County Sheriff's Department.
17 The involved Sheriff's Officer asked Defendant if she believed that two "Lisas,"
18 Plaintiff, Lisa Ostella, and Lisa Liberi were connected. In response to that inquiry,
19 Defendant stated that she believed Plaintiff and Ms. Liberi were connected in that
20 she believed both were working with Philip Berg. Defendant did not inform the
21 involved Officer that she believed that Plaintiff and Ms. Liberi were the same
22 person, nor did Defendant inform the Officer that Plaintiff had a criminal record.
23 Defendant also informed the involved Officer that she did not know how much
24 money had been diverted from DOFF. The involved Officer made multiple other
25 errors in his initial intake notes. Further, the Federal Bureau of Investigation
26 informed Defendant that it transferred the matter to a Cybercrimes Unit. Defendant
27 denies each and every remaining allegation of paragraph 19 of the SAC.

28

1 20. In answering paragraph 20 of the SAC, Defendant denies that Plaintiff
2 did not block Defendant's access to the subject website, related blog and the PayPal
3 account associated with said website. Plaintiff has testified under penalty of perjury,
4 and the Court has accordingly determined, that she blocked Defendant's access to
5 the website, blog and the PayPal account associated with said website. (See,
6 December 23, 2010 Memorandum Order; Doc. No. 160.) Defendant denies that
7 Plaintiff transferred or attempted to transfer any "domain code" referenced in
8 paragraph 20 of the SAC in any complete or effective manner. Defendant further
9 denies that Plaintiff "was coordinating with TAITZ's new webmaster" as referenced
10 in paragraph 20 of the SAC in any complete or effective manner. In spite of a Cease
11 and Desist letter from Defendant demanding that Plaintiff transfer the codes for
12 defendourfreedoms.net, .org and .com, Plaintiff refused to transfer them and still
13 has them. Plaintiff's claimed transfer of defendourfreedoms.us did not work and
14 could not work, as it was connected to other web addresses that Plaintiff refused to
15 transfer. Defendant denies each and every remaining allegation of paragraph 20 of
16 the SAC.

17 21. In answering paragraph 21 of the SAC, Defendant is without
18 knowledge or information sufficient to form a belief as to the truth of the
19 allegations contained in said paragraph 21 of the SAC, and on that basis, denies
20 each and every allegation contained therein. Additionally, Plaintiff deleted the
21 Defend Our Freedoms website from the Internet and through her attorney, Mr.
22 Lorenzo, in his letter to the Court, she admitted that no links were preserved after
23 she removed the website from the hosting company GoDaddy. Without the links it
24 is impossible to ascertain to which credit cards or PayPal accounts donations were
25 diverted. From 2009 there could be hundreds of different credit card accounts and
26 different links to different PayPal accounts that cannot be found now due to
27 destruction of evidence by Plaintiff.

28

1 22. In answering paragraph 22 of the SAC, Defendant denies that
2 "donations could not have been redirected by Ostella...." Defendant only had
3 control over her website orlytaitzesq.com. However, from April 11, 2009 until now,
4 Plaintiff ran one or more parallel website(s), on which she used the web address of
5 DOFF, a picture of Defendant and the name "Defend Our Freedoms Foundation" on
6 the top of the website(s) and misleadingly solicited donations thereby. Plaintiff did
7 such things to make it appear to the public as if such website(s) was/were still the
8 website of DOFF, even though from and after April 11, 2009 Plaintiff was no
9 longer affiliated with DOFF. Further, prior to April 11, 2009 and as stated herein,
10 Plaintiff, as webmaster, had control over the involved website, blog and associated
11 PayPal function, and thus had the ability to divert donations intended for DOFF.
12 Defendant denies each and every remaining allegation of paragraph 22 of the SAC.

13 23. In answering paragraph 23 of the SAC, Defendant denies that she filed
14 a written report with the Orange County Sheriff's Department. Defendant
15 communicated verbally with the involved Sheriff's Officer. Defendant verbally
16 advised the Officer about the diversion of donations through the website which
17 Plaintiff ran under the name of Defend Our Freedoms and using the picture of
18 Defendant. She also advised the Officer that Plaintiff was using that website not
19 only to divert donations to herself, but also to Attorney Philip Berg, who was using
20 Lisa Liberi as his paralegal. Defendant advised the Officer that Lisa Liberi had a
21 criminal record and a recent conviction of ten felony counts of grand theft and offer
22 of forged/altered documents to file. The Officer asked Defendant if she believed
23 that two "Lisas," Plaintiff, Lisa Ostella, and Lisa Liberi were connected. In
24 response to that inquiry, Defendant stated that she believed Plaintiff and Ms. Liberi
25 were connected in that she believed both were working with Philip Berg. Defendant
26 did not inform the involved Officer that she believed that Plaintiff and Ms. Liberi
27 were the same person, nor did Defendant inform the Officer that Plaintiff had a
28

1 criminal record. Defendant denies each and every remaining allegation of paragraph
2 23 of the SAC.

3 24. In answering paragraph 24 of the SAC, Defendant denies each and
4 every allegation contained therein, including but not limited to the uncertain, vague
5 and ambiguous allegations regarding a “glitch.” As stated in paragraph 22 of this
6 Answer, from April 11, 2009 until now, Plaintiff ran one or more parallel and
7 misleading website(s) through which she diverted donations intended for DOFF.
8 Defendant denies each and every remaining allegation of paragraph 24 of the SAC.

9 25. In answering paragraph 25 of the SAC, Defendant denies the uncertain,
10 vague and ambiguous allegations regarding “remarkable Internet viewer traffic” and
11 the “celebrity and popularity” of Defendant’s blog. Defendant’s popularity in the
12 public decreased significantly and donations decreased by more than half after
13 Plaintiff usurped the website of DOFF and diverted donations from it and
14 Defendant. Defendant and DOFF have suffered significant damage from the actions
15 of Plaintiff, by her diversion of funds, and Plaintiff’s and Philip Berg’s defamation
16 of Defendant. Defendant denies each and every remaining allegation of paragraph
17 25 of the SAC.

18 26. In answering paragraph 26 of the SAC, and Subparts A - K of said
19 paragraph 26, Defendant admits, denies and alleges as follows:

20 A. In answering Subpart A of paragraph 26 of the SAC, Defendant
21 states that she does not have any record of the purported April
22 17, 2009 posting on www.ONLYTAITZesq.com referred to in said
23 Subpart A. There is no record of any postings before April 18,
24 2009 with regard to said website and related blog, which was
25 created on April 18, 2009. Accordingly, Defendant denies each
26 and every allegation contained in Subpart A of paragraph 26 of
27 the SAC.
28

1 B. In answering Subpart B of paragraph 26 of the SAC, and as
2 stated in paragraphs 19 and 23 herein, Defendant denies that she
3 made a written report to the Orange County Sheriff's
4 Department, and denies that what is purported to be quoted in
5 said Subpart B accurately describes what she reported to the
6 Orange County Sheriff's Defendant. Accordingly, Defendant
7 denies each and every allegation contained in Subpart B of
8 paragraph 26 of the SAC.

9 C. In answering Subpart C of paragraph 26 of the SAC, Defendant
10 does not know if the alleged statement purported to be quoted in
11 that portion of the SAC accurately states any posting allegedly
12 made by Defendant on April 18, 2009, nor if the alleged
13 statement is in the same form as any posting allegedly made by
14 Defendant on April 18, 2009. Accordingly, Defendant is without
15 knowledge or information sufficient to form a belief as to the
16 truth of the allegations contained in said Subpart C of paragraph
17 26 of the SAC, and on that basis, denies each and every
18 allegation contained therein.

19 D. In answering Subpart D of paragraph 26 of the SAC, Defendant
20 does not know if the alleged statement purported to be quoted in
21 that portion of the SAC accurately states any posting allegedly
22 made by Defendant on April 18, 2009, nor if the alleged
23 statement is in the same form as any posting allegedly made by
24 Defendant on April 18, 2009. Accordingly, Defendant is without
25 knowledge or information sufficient to form a belief as to the
26 truth of the allegations contained in said Subpart D of paragraph
27 26 of the SAC, and on that basis, denies each and every
28 allegation contained therein.

1 E. In answering Subpart E of paragraph 26 of the SAC, Defendant
2 does not know if the alleged statement purported to be quoted in
3 that portion of the SAC accurately states any posting allegedly
4 made by Defendant on April 19, 2009, nor if the alleged
5 statement is in the same form as any posting allegedly made by
6 Defendant on April 19, 2009. Accordingly, Defendant is without
7 knowledge or information sufficient to form a belief as to the
8 truth of the allegations contained in said Subpart E of paragraph
9 26 of the SAC, and on that basis, denies each and every
10 allegation contained therein.

11 F. In answering Subpart F of paragraph 26 of the SAC, Defendant
12 does not know if the alleged statement purported to be quoted in
13 that portion of the SAC accurately states any posting allegedly
14 made by Defendant on April 20, 2009, nor if the alleged
15 statement is in the same form as any posting allegedly made by
16 Defendant on April 20, 2009. Accordingly, Defendant is without
17 knowledge or information sufficient to form a belief as to the
18 truth of the allegations contained in said Subpart F of paragraph
19 26 of the SAC, and on that basis, denies each and every
20 allegation contained therein.

21 G. In answering Subpart G of paragraph 26 of the SAC, Defendant
22 does not know if the alleged statement purported to be quoted in
23 that portion of the SAC accurately states any posting allegedly
24 made by Defendant on April 21, 2009, nor if the alleged
25 statement is in the same form as any posting allegedly made by
26 Defendant on April 21, 2009. Accordingly, Defendant is without
27 knowledge or information sufficient to form a belief as to the
28 truth of the allegations contained in said Subpart G of paragraph

1 26 of the SAC, and on that basis, denies each and every
2 allegation contained therein.

3 H. In answering Subpart H of paragraph 26 of the SAC, Defendant
4 does not know if the alleged statement purported to be quoted in
5 that portion of the SAC accurately states any posting allegedly
6 made by Defendant on May 5, 2009, nor if the alleged statement
7 is in the same form as any posting allegedly made by Defendant
8 on May 5, 2009. Accordingly, Defendant is without knowledge
9 or information sufficient to form a belief as to the truth of the
10 allegations contained in said Subpart H of paragraph 26 of the
11 SAC, and on that basis, denies each and every allegation
12 contained therein.

13 I. In answering Subpart I of paragraph 26 of the SAC, Defendant
14 does not know if the alleged statement purported to be quoted in
15 that portion of the SAC accurately states any posting allegedly
16 made by Defendant on May 19, 2009, nor if the alleged
17 statement is in the same form as any posting allegedly made by
18 Defendant on May 19, 2009. Accordingly, Defendant is without
19 knowledge or information sufficient to form a belief as to the
20 truth of the allegations contained in said Subpart I of paragraph
21 26 of the SAC, and on that basis, denies each and every
22 allegation contained therein.

23 J. In answering Subpart J of paragraph 26 of the SAC, Defendant
24 does not know if the alleged statement purported to be quoted in
25 that portion of the SAC accurately states any posting allegedly
26 made by Defendant on May 20, 2009, nor if the alleged
27 statement is in the same form as any posting allegedly made by
28 Defendant on May 20, 2009. Accordingly, Defendant is without

1 knowledge or information sufficient to form a belief as to the
2 truth of the allegations contained in said Subpart J of paragraph
3 26 of the SAC, and on that basis, denies each and every
4 allegation contained therein.

5 K. In answering Subpart K of paragraph 26 of the SAC, Defendant
6 does not know if the alleged statement purported to be quoted in
7 that portion of the SAC accurately states any posting allegedly
8 made by Defendant on March 3, 2011, nor if the alleged
9 statement is in the same form as any posting allegedly made by
10 Defendant on March 3, 2011. Accordingly, Defendant is without
11 knowledge or information sufficient to form a belief as to the
12 truth of the allegations contained in said Subpart K of paragraph
13 26 of the SAC, and on that basis, denies each and every
14 allegation contained therein.

15 27. In answering paragraph 27 of the SAC, Defendant denies each and
16 every allegation contained therein.

17 28. In answering paragraph 28 of the SAC, Defendant denies that she by
18 the email purported to be quoted in said paragraph 28 “admitted her awareness that
19 there was not a hacking but a glitch on her email suffix.” The email purported to be
20 quoted in said paragraph 28 does not state that there was a “glitch”; it states that
21 “Somebody tempered [sic] with my [P]aypal account, actually went into account
22 and changed it from orly.TAITZ@gmail.com to orly.TAITZ@gmail.org....”
23 As stated in paragraph 13 herein, Plaintiff has admitted that there was no such
24 “glitch” and falsely accused Fran MacLaren of said change in Defendant’s e-mail
25 address from orly.taitz@gmail.com to orly.taitz@gmail.org. Defendant denies each
26 and every remaining allegation of paragraph 28 of the SAC.

27 29. In answering paragraph 29 of the SAC, Defendant denies each and
28 every allegation contained therein.

CLAIM I OF THE SAC: Invasion of Privacy - False Light Publicity

30. In answering paragraph 30 of the SAC, Defendant re-pleads and incorporates herein her responses to paragraphs 1 through 29 of the SAC, including all sub-paragraphs of said paragraphs, above as though fully set forth herein.

31. In answering paragraph 31 of the SAC, Defendant denies each and every allegation contained therein.

32. In answering paragraph 32 of the SAC, Defendant denies each and every allegation contained therein.

CLAIM II OF THE SAC: Invasion of Privacy - Appropriation of Name Cal.

Civ. Code § 3344(a)

33. In answering paragraph 33 of the SAC, Defendant re-pleads and incorporates herein her responses to paragraphs 1 through 32 of the SAC, including all sub-paragraphs of said paragraphs, above as though fully set forth herein.

34. In answering paragraph 34 of the SAC, Defendant denies each and every allegation contained therein.

35. In answering paragraph 35 of the SAC, Defendant denies each and every allegation contained therein.

36. In answering paragraph 36 of the SAC, Defendant denies each and every allegation contained therein.

37. In answering paragraph 37 of the SAC, Defendant denies each and every allegation contained therein.

38. In answering paragraph 38 of the SAC, Defendant denies each and every allegation contained therein.

CLAIM III OF THE SAC: Cyber Harassment/Bullying Calif. Pen. Code 653.2

& Civ. Code § 3344(a)

39. In answering paragraph 39 of the SAC, Defendant re-pleads and incorporates herein her responses to paragraphs 1 through 38 of the SAC, including all sub-paragraphs of said paragraphs, above as though fully set forth herein.

1 40. In answering paragraph 40 of the SAC, Defendant denies each and
2 every allegation contained therein.

3 41. In answering paragraph 41 of the SAC, Defendant denies each and
4 every allegation contained therein.

5 42. In answering paragraph 42 of the SAC, Defendant denies each and
6 every allegation contained therein.

7 **CLAIM IV OF THE SAC: Defamation Per Se - Libel Per Se**

8 **Calif. C. Civ. Proc. 45**

9 43. In answering paragraph 43 of the SAC, Defendant re-pleads and
10 incorporates herein her responses to paragraphs 1 through 41 of the SAC, including
11 all sub-paragraphs of said paragraphs, above as though fully set forth herein.

12 44. In answering paragraph 44 of the SAC, Defendant denies each and
13 every allegation contained therein.

14 45. In answering paragraph 45 of the SAC, Defendant denies each and
15 every allegation contained therein.

16 46. In answering paragraph 46 of the SAC, Defendant denies each and
17 every allegation contained therein.

18 47. In answering paragraph 47 of the SAC, Defendant denies each and
19 every allegation contained therein.

20 48. In answering paragraph 48 of the SAC, Defendant denies each and
21 every allegation contained therein.

22 **PRAYER FOR RELIEF OF THE SAC**

23 49. In answering the Prayer for Relief and its paragraph 1, Defendant
24 denies that Plaintiff is entitled to any of the relief being sought therein.

25 50. In answering the Prayer for Relief and its paragraph 2, Defendant
26 denies that Plaintiff is entitled to any of the relief being sought therein.

27 51. In answering the Prayer for Relief and its paragraph 3, Defendant
28 denies that Plaintiff is entitled to any of the relief being sought therein.

1 52. In answering the Prayer for Relief and its paragraph 4, Defendant
2 denies that Plaintiff is entitled to any of the relief being sought therein.

3 53. In answering the Prayer for Relief and its paragraph 5, Defendant
4 denies that Plaintiff is entitled to any of the relief being sought therein.

5 54. In answering the Prayer for Relief and its paragraph 6, Defendant
6 denies that Plaintiff is entitled to any of the relief being sought therein.

7 55. In answering the Prayer for Relief and its paragraph 7, Defendant
8 denies that Plaintiff is entitled to any of the relief being sought therein.

9 56. In answering the Prayer for Relief and its paragraph 8, Defendant
10 denies that Plaintiff is entitled to any of the relief being sought therein.

11 57. In answering the Prayer for Relief and its paragraph 9, Defendant
12 denies that Plaintiff is entitled to any of the relief being sought therein.

13 58. In answering the Prayer for Relief and its paragraph 10, Defendant
14 denies that Plaintiff is entitled to any of the relief being sought therein.

15 59. Defendant also demands a trial by jury.

16 **AFFIRMATIVE DEFENSES**

17 **FOR A FIRST, SEPARATE AND DISTINCT AFFIRMATIVE**
18 **DEFENSE, THIS ANSWERING DEFENDANT ALLEGES:**

19 1. As and for a separate, distinct affirmative defense to the SAC, this
20 answering Defendant alleges that the SAC and each of its claims for relief fails to
21 state a claim against Defendant for which relief can be granted. Fed. R. Civ. P.
22 12(b)(6).

23 **FOR A SECOND, SEPARATE AND DISTINCT AFFIRMATIVE**
24 **DEFENSE, THIS ANSWERING DEFENDANT ALLEGES:**

25 2. As and for a separate, distinct affirmative defense to the SAC, this
26 answering Defendant alleges that the SAC and each of its claims for relief fails to
27 state a claim against Defendant due to lack of subject-matter jurisdiction including
28 but not limited to the absence of diversity jurisdiction. Fed. R. Civ. P. 12(b)(1).

**FOR A THIRD, SEPARATE AND DISTINCT AFFIRMATIVE
DEFENSE, THIS ANSWERING DEFENDANT ALLEGES:**

3. As and for a separate, distinct affirmative defense to the SAC, this answering Defendant alleges that the SAC and each of its claims for relief fails to state a claim against Defendant due to lack of personal jurisdiction. Fed. R. Civ. P. 12(b)(2).

**FOR A FOURTH, SEPARATE AND DISTINCT AFFIRMATIVE
DEFENSE, THIS ANSWERING DEFENDANT ALLEGES:**

4. As and for a separate, distinct affirmative defense to the SAC, this answering Defendant alleges that any damages which Plaintiff has alleged in the instant matter are speculative in nature and, therefore, are not recoverable.

**FOR A FIFTH, SEPARATE AND DISTINCT AFFIRMATIVE
DEFENSE, THIS ANSWERING DEFENDANT ALLEGES:**

5. As and for a separate, distinct affirmative defense to the SAC, this answering Defendant alleges that Plaintiff has failed to act reasonably to mitigate her damages, if any there be. Such failure to mitigate on the part of Plaintiff bars or reduces her right to recover any damages against this Defendant.

**FOR A SIXTH, SEPARATE AND DISTINCT AFFIRMATIVE
DEFENSE, THIS ANSWERING DEFENDANT ALLEGES:**

6. As and for a separate, distinct affirmative defense to the SAC, this answering Defendant alleges that the SAC and each of its claims for relief does not state facts sufficient to constitute any claim for relief in that the statements alleged to be defamatory are not false statements of fact.

**FOR A SEVENTH, SEPARATE AND DISTINCT AFFIRMATIVE
DEFENSE, THIS ANSWERING DEFENDANT ALLEGES:**

7. As and for a separate, distinct affirmative defense to the SAC, this answering Defendant alleges that in the event this Defendant is found liable to Plaintiff, which liability is expressly denied, said liability should be reduced by the

1 percentage of fault attributable to Plaintiff and all others; and that said liability for
2 non-economic damages of this Defendant is several only and not joint, so that
3 Defendant shall be responsible only for the amount of noneconomic damages
4 allocated to her in direct proportion to her percentage of fault pursuant to the
5 provisions of California Civil Code section 1431.2.

6 **FOR AN EIGHTH, SEPARATE AND DISTINCT AFFIRMATIVE**
7 **DEFENSE, THIS ANSWERING DEFENDANT ALLEGES:**

8 8. As and for a separate, distinct affirmative defense to the SAC, this
9 answering Defendant alleges that the SAC and each of its claims for relief is barred
10 by applicable statutes of limitation, including, but not limited to, under California
11 Code of Civil Procedure sections 335.1, 337, 337a, 339 and 340.

12 **FOR A NINTH, SEPARATE AND DISTINCT AFFIRMATIVE**
13 **DEFENSE, THIS ANSWERING DEFENDANT ALLEGES:**

14 9. As and for a separate, distinct affirmative defense to the SAC, this
15 answering Defendant alleges that statements alleged by Plaintiff to have been made
16 by Defendant, and alleged by Plaintiff to be defamatory, are not defamatory in that
17 they are true statements.

18 **FOR A TENTH, SEPARATE AND DISTINCT AFFIRMATIVE**
19 **DEFENSE, THIS ANSWERING DEFENDANT ALLEGES:**

20 10. As and for a separate, distinct affirmative defense to the SAC, this
21 answering Defendant alleges that any recovery by Plaintiff is barred by the doctrine
22 of laches.

23 **FOR AN ELEVENTH, SEPARATE AND DISTINCT AFFIRMATIVE**
24 **DEFENSE, THIS ANSWERING DEFENDANT ALLEGES:**

25 11. As and for a separate, distinct affirmative defense to the SAC, this
26 answering Defendant alleges that the statements alleged by Plaintiff to have been
27 made by Defendant, and alleged by Plaintiff to be defamatory, are not defamatory in
28 that they are fair comments not made with actual malice.

**FOR A TWELFTH, SEPARATE AND DISTINCT AFFIRMATIVE
DEFENSE, THIS ANSWERING DEFENDANT ALLEGES:**

12. As and for a separate, distinct affirmative defense to the SAC, this answering Defendant alleges that any recovery by Plaintiff is barred by the doctrine of unclean hands by the tortious and other unlawful conduct of Plaintiff set out herein.

**FOR A THIRTEENTH, SEPARATE AND DISTINCT AFFIRMATIVE
DEFENSE, THIS ANSWERING DEFENDANT ALLEGES:**

13. As and for a separate, distinct affirmative defense to the SAC, this answering Defendant alleges that the SAC and each of its claims for relief does not state facts sufficient to constitute a claim for relief against Defendant in that the statements alleged to be defamatory are expressions of opinions.

**FOR A FOURTEENTH, SEPARATE AND DISTINCT AFFIRMATIVE
DEFENSE, THIS ANSWERING DEFENDANT ALLEGES:**

14. As and for a separate, distinct affirmative defense to the SAC, this answering Defendant alleges that the alleged defamatory statements of which Plaintiff complains are related to and constitute matters of public concern and, thus, are constitutionally protected by application of the First Amendment to the United States Constitution and California Code of Civil Procedure section 425.16.

**FOR A FIFTEENTH, SEPARATE AND DISTINCT AFFIRMATIVE
DEFENSE, THIS ANSWERING DEFENDANT ALLEGES:**

15. As and for a separate, distinct affirmative defense to the SAC, this answering Defendant alleges that the SAC and each of its claims for relief is barred where the alleged defamatory statements are privileged by application of California Civil Code section 47(b) and (c).

**FOR A SIXTEENTH, SEPARATE AND DISTINCT AFFIRMATIVE
DEFENSE, THIS ANSWERING DEFENDANT ALLEGES:**

16. As and for a separate, distinct affirmative defense to the SAC, this answering Defendant alleges that the SAC and each of its claims for relief is barred under the substantial truth doctrine.

**FOR A SEVENTEENTH, SEPARATE AND DISTINCT AFFIRMATIVE
DEFENSE, THIS ANSWERING DEFENDANT ALLEGES:**

17. As and for a separate, distinct affirmative defense to the SAC, this answering Defendant alleges that the SAC and each of its claims for relief is barred where Plaintiff has not sustained actual damages as a result of the alleged defamatory statements.

**FOR AN EIGHTEENTH, SEPARATE AND DISTINCT AFFIRMATIVE
DEFENSE, THIS ANSWERING DEFENDANT ALLEGES:**

18. As and for a separate, distinct affirmative defense to the SAC, this answering Defendant alleges that the alleged defamatory statements complained of in the SAC were made without any feelings by Defendant of malice, hatred or ill-will for Plaintiff.

**FOR A NINETEENTH, SEPARATE AND DISTINCT AFFIRMATIVE
DEFENSE, THIS ANSWERING DEFENDANT ALLEGES:**

19. As and for a separate, distinct affirmative defense to the SAC, this answering Defendant alleges that the alleged statements complained of in the SAC are protected under the common interest privilege where the alleged defamatory statements were made in good faith, without malice, and to persons interested therein by one who was also interested or who was requested by the persons interested to give the information.

**FOR A TWENTIETH, SEPARATE AND DISTINCT AFFIRMATIVE
DEFENSE, THIS ANSWERING DEFENDANT ALLEGES:**

20. As and for a separate, distinct affirmative defense to the SAC, this answering Defendant alleges that Plaintiff lacks standing to sue in this action.

**FOR A TWENTY-FIRST, SEPARATE AND DISTINCT AFFIRMATIVE
DEFENSE, THIS ANSWERING DEFENDANT ALLEGES:**

21. As and for a separate, distinct affirmative defense to the SAC, this answering Defendant alleges that the alleged statements complained of in the SAC are protected under the common interest privilege where the alleged defamatory statements were made in good faith, without malice, and by a person who stood in such a relation to the persons interested as to afford a reasonable ground for supposing the motive for the communications to be innocent.

**FOR A TWENTY-SECOND, SEPARATE AND DISTINCT AFFIRMATIVE
DEFENSE, THIS ANSWERING DEFENDANT ALLEGES:**

22. As and for a separate, distinct affirmative defense to the SAC, this answering Defendant alleges that the alleged statements complained of in the SAC are protected under the common interest privilege where the alleged defamatory statements were made in good faith, without malice, and were justified and necessary to protect the interests of the political dissident community and donors of said community.

**FOR A TWENTY-THIRD, SEPARATE AND DISTINCT AFFIRMATIVE
DEFENSE, THIS ANSWERING DEFENDANT ALLEGES:**

23. As and for a separate, distinct affirmative defense to the SAC, this answering Defendant alleges that the alleged defamatory statements complained of in the SAC are protected under the common interest privilege where the statements were made in good faith, and not maliciously or with a reckless disregard for the truth.

**FORA TWENTY-FOURTH, SEPARATE AND DISTINCT AFFIRMATIVE
DEFENSE, THIS ANSWERING DEFENDANT ALLEGES:**

24. As and for a separate, distinct affirmative defense to the SAC, this answering Defendant alleges that the alleged defamatory statements complained of in the SAC are protected under the qualified privilege where Defendant had a good faith reason to believe the truth of matters contained in such statements, Defendant had a personal or professional interest in knowing the information in the statements, and Defendant shared the statements only with others who also had a personal or professional interest in knowing the information in the statements.

**FOR A TWENTY-FIFTH, SEPARATE AND DISTINCT AFFIRMATIVE
DEFENSE, THIS ANSWERING DEFENDANT ALLEGES:**

25. As and for a separate, distinct affirmative defense to the SAC, this answering Defendant alleges that the SAC and each of its claims for relief is barred under the doctrines of res judicata, collateral estoppel and law of the case, and including but not limited to under and pursuant to the Court of Appeals' decision (Court of Appeals Case No. 13-56253; Dkt. No. 676) finding that Defendant engaged in protected activities under California's anti-SLAPP statute (Code of Civil Procedure section 425.16) exercising her rights of free speech on matters of public importance.

**FOR A TWENTY-SIXTH, SEPARATE AND DISTINCT AFFIRMATIVE
DEFENSE, THIS ANSWERING DEFENDANT ALLEGES:**

26. As and for a separate, distinct affirmative defense to the SAC, this answering Defendant alleges that any recovery by Plaintiff is barred by the doctrine of estoppel, including under equitable estoppel and judicial estoppel. This includes but is not limited to where Plaintiff has alleged and stated in various pleadings that California law does not apply in the case captioned above.

**FOR A TWENTY-SEVENTH, SEPARATE AND DISTINCT AFFIRMATIVE
DEFENSE, THIS ANSWERING DEFENDANT ALLEGES:**

27. As and for a separate, distinct affirmative defense to the SAC, this answering Defendant alleges that any recovery by Plaintiff is barred by the doctrine of offset/setoff, including under California Code of Civil Procedure sections 431.70 and/or 666, where the amount of Defendant's and DOFF's damages caused by the tortious and other unlawful conduct of Plaintiff set out herein exceeds the amount of the damages claimed by Plaintiff herein, if any there be and the existence of such alleged damages is expressly denied by Defendant.

**FOR A TWENTY-EIGHTH, SEPARATE AND DISTINCT AFFIRMATIVE
DEFENSE, THIS ANSWERING DEFENDANT ALLEGES:**

28. As and for a separate, distinct affirmative defense to the SAC, this answering Defendant alleges that any recovery by Plaintiff is barred by the doctrine of waiver.

**FOR A TWENTY-NINTH, SEPARATE AND DISTINCT AFFIRMATIVE
DEFENSE, THIS ANSWERING DEFENDANT ALLEGES:**

29. As and for a separate, distinct affirmative defense to the SAC, this answering Defendant alleges that the SAC and each of its claims for relief is barred because all of Defendant's alleged actions with respect to Plaintiff were taken solely for legitimate and justified reasons unrelated to any alleged defamation, invasion of privacy or any other claimed wrongful conduct.

**FOR A THIRTIETH, SEPARATE AND DISTINCT AFFIRMATIVE
DEFENSE, THIS ANSWERING DEFENDANT ALLEGES:**

30. As and for a separate, distinct affirmative defense to the SAC, this answering Defendant alleges that Plaintiff is not entitled to recover attorneys' fees on any basis.

**FOR A THIRTY-FIRST, SEPARATE AND DISTINCT AFFIRMATIVE
DEFENSE, THIS ANSWERING DEFENDANT ALLEGES:**

31. As and for a separate, distinct affirmative defense to the SAC, this answering Defendant alleges that Plaintiff's claims for injunctive or other equitable relief are barred because Plaintiff has an adequate and complete remedy at law.

**FOR A THIRTY-SECOND, SEPARATE AND DISTINCT AFFIRMATIVE
DEFENSE, THIS ANSWERING DEFENDANT ALLEGES:**

32. As and for a separate, distinct affirmative defense to the SAC, this answering Defendant alleges that Plaintiff may not recover damages in this action because, under the circumstances presented, it would constitute unjust enrichment

**FOR A THIRTY-THIRD, SEPARATE AND DISTINCT AFFIRMATIVE
DEFENSE, THIS ANSWERING DEFENDANT ALLEGES:**

33. As and for a separate, distinct affirmative defense to the SAC, this answering Defendant alleges that Plaintiff is not entitled to recover any punitive damages, and any allegations in support of a claim for punitive damages should be stricken, because California's laws regarding the acts and omissions alleged are too vague to permit the imposition of punitive damages, and because any award of punitive damages in this action would violate Defendant's constitutional rights under the due process clauses of the Fifth and Fourteenth Amendments to the United States Constitution, and the excessive fines and cruel and unusual punishment clauses of the Eighth Amendment to the United States Constitution, as well as other provisions of the United States Constitution and the California Constitution.

**FOR A THIRTY-FOURTH, SEPARATE AND DISTINCT AFFIRMATIVE
DEFENSE, THIS ANSWERING DEFENDANT ALLEGES:**

34. As and for a separate, distinct affirmative defense to the SAC, this answering Defendant alleges that Defendant cannot be held liable for punitive

1 damages because she did not engage in oppressive, fraudulent or malicious conduct
2 toward Plaintiff. California Civil Code section 3294.

3 **FOR A THIRTY-FIFTH, SEPARATE AND DISTINCT AFFIRMATIVE**
4 **DEFENSE, THIS ANSWERING DEFENDANT ALLEGES:**

5 35. As and for a separate, distinct affirmative defense to the SAC, this
6 answering Defendant alleges that there is no justiciable controversy under the facts
7 and law which existed at the time of the filing of Plaintiff's initial Complaint, First
8 Amended Complaint and Second Amended Complaint, that said Complaints were
9 filed without reasonable cause and not in good faith, and therefore Defendant is
10 entitled to reimbursement of her defense costs, including attorney's fees and expert
11 witnesses' fees incurred, pursuant to Fed. R. Civ. P. 11 and other applicable legal
12 authority.

13 **FOR A THIRTY-SIXTH, SEPARATE AND DISTINCT AFFIRMATIVE**
14 **DEFENSE, THIS ANSWERING DEFENDANT ALLEGES:**

15 36. As and for a separate, distinct affirmative defense to the SAC, this
16 answering Defendant alleges that she may have additional defenses to the claims of
17 Plaintiff not presently known to Defendant and which inure to the benefit of
18 Defendant, and Defendant therefore prays leave to amend the Answer to assert such
19 defenses when the same shall have been ascertained.

20 WHEREFORE, this answering Defendant prays that:

- 21 1. Plaintiff take nothing by way of her SAC on file herein as against
22 Defendant;
- 23 2. Defendant be dismissed with prejudice, and that judgment be entered
24 for Defendant;
- 25 3. Defendant be awarded her reasonable costs and attorneys' fees incurred
26 herein; and

1 4. The Court grant such other and further relief that it deems just and
2 proper.

3
4 DATED: November 3, 2017

SCHUMANN | ROSENBERG

5
6 By: /s/ Jeffrey P. Cunningham
7 Kim Schumann, Esq.
8 Jeffrey P. Cunningham, Esq.
9 Attorneys for Defendant,
10 ORLY TAITZ
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CERTIFICATE OF SERVICE

I hereby certify that on November 3, 2017, I electronically filed the foregoing
ANSWER OF DEFENDANT, ORLY TAITZ, TO PLAINTIFF, LISA OSTELLA'S
SECOND AMENDED COMPLAINT with the Clerk of the Court using the
CM/ECF system which will send the notification of such filing via electronic mail
to all counsel of record.

/s/ Jeffrey P. Cunningham
Jeffrey P. Cunningham